

# **EXHIBIT 3**

**Ethan Glenn**

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**From:** Patchen, Kate <KPatchen@cov.com>  
**Sent:** Sunday, April 21, 2024 12:47 AM  
**To:** Marc B. Collier; Chow, Kyle W; Zeke DeRose III; Fitch, Jackie; Alex J. Brown; Jonathan.Wilkerson; Lee, Anne; Larkin, Brigid; Geraldine W. Young; Gabriel Culver; Ethan Glenn  
**Subject:** RE: TX-Meta Subpoena  
**Attachments:** Search Terms June 2020 CID.pdf

Marc,

We appreciate your willingness to work with us. Attached please find select search terms for the June 2020 CID. In addition to providing this information, we want to confirm and clarify a few points.

1. **Document Production.** We will produce directly to Texas the three document sets we proposed and that you agreed to below. The production process started already, and we anticipate that those documents will be available to you on April 23. We commit in good faith to meeting that deadline, but we may need to revisit the deadline with you if there are any production problems we may not be anticipating. In terms of the DOJ file, we cannot represent what is in the DOJ file (since Meta did not produce it and has not seen it) or that there are no other relevant documents in other DOJ productions. We can represent, however, that the three document sets we proposed and that you agreed to below reflect the custodial files we believe are most likely to contain information relevant to the claims at issue in this litigation. We have made the underlying CIDs available to you for review and are sharing the search terms, that were negotiated with DOJ, for the June 2020 CID (attached). We will also provide copies of deposition transcripts (subject to our pre-existing confidentiality designations) from the EDVA litigation.
2. **Deposition Time.** The scheduling order states that “[i]f a non-party deposition is noticed by both sides, then the deposition will be eleven hours and will be divided equally between the sides.” As such, we believe that Meta should only have to provide eleven hours of testimony in total between the two witnesses.
3. **Deposition Topics.** As describe in our letter to Texas, Meta’s first witness scheduled for April 30, 2024 will be able to cover the topics related to the later implementation of the NBA. This witness will also be able to cover the topics in Google’s Cross Notice. The second witness scheduled for May 2, 2024 will be able to cover topics related to the NBA’s negotiation, execution, and early implementation. Also, we do not agree that it is possible to prepare a witness to testify to “anything” that occurred after the signing of the NBA and expect that we will be able to meet and confer early next week to reach an agreement on a more reasonable scope.

Please indicate your agreement to the above and provide your confirmation that if we make the production as agreed, this will constitute Meta's complete response to the document requests in the subpoena issued to Meta on March 29, 2024, and we will have no further production obligations under the subpoena.

Best,  
Kate

**Kate Patchen**

Covington & Burling LLP  
Salesforce Tower, 415 Mission Street, Suite 5400  
San Francisco, CA 94105-2533

T +1 415 591 6031 | [kpatchen@cov.com](mailto:kpatchen@cov.com)  
[www.cov.com](http://www.cov.com)

---

**From:** Patchen, Kate

**Sent:** Saturday, April 20, 2024 1:59 PM

**To:** 'Marc B. Collier' <[marc.collier@nortonrosefulbright.com](mailto:marc.collier@nortonrosefulbright.com)>; Chow, Kyle W <[KChow@cov.com](mailto:KChow@cov.com)>; Zeke DeRose III <[zeke.derose@lanierlawfirm.com](mailto:zeke.derose@lanierlawfirm.com)>; Fitch, Jackie <[JFitch@cov.com](mailto:JFitch@cov.com)>; Alex J. Brown <[Alex.Brown@LanierLawFirm.com](mailto:Alex.Brown@LanierLawFirm.com)>; Jonathan.Wilkerson <[Jonathan.Wilkerson@LanierLawFirm.com](mailto:Jonathan.Wilkerson@LanierLawFirm.com)>; Lee, Anne <[alee@cov.com](mailto:alee@cov.com)>; Larkin, Brigid <[BLarkin@cov.com](mailto:BLarkin@cov.com)>; Geraldine W. Young <[geraldine.young@nortonrosefulbright.com](mailto:geraldine.young@nortonrosefulbright.com)>; Gabriel Culver <[gabriel.culver@nortonrosefulbright.com](mailto:gabriel.culver@nortonrosefulbright.com)>; Ethan Glenn <[ethan.glenn@nortonrosefulbright.com](mailto:ethan.glenn@nortonrosefulbright.com)>

**Subject:** RE: TX-Meta Subpoena

Marc,

Thank you for your email below. We are conferring with our client and will send a reply addressing some of the details and requests below. Given the tight deadline though, I wanted to let you know that we've started preparing the production.

Best,  
Kate

## Kate Patchen

Covington & Burling LLP  
Salesforce Tower, 415 Mission Street, Suite 5400  
San Francisco, CA 94105-2533  
T +1 415 591 6031 | [kpatchen@cov.com](mailto:kpatchen@cov.com)  
[www.cov.com](http://www.cov.com)

# COVINGTON

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**From:** Marc B. Collier <[marc.collier@nortonrosefulbright.com](mailto:marc.collier@nortonrosefulbright.com)>

**Sent:** Friday, April 19, 2024 7:21 PM

**To:** Chow, Kyle W <[KChow@cov.com](mailto:KChow@cov.com)>; Zeke DeRose III <[zeke.derose@lanierlawfirm.com](mailto:zeke.derose@lanierlawfirm.com)>; Patchen, Kate <[KPatchen@cov.com](mailto:KPatchen@cov.com)>; Fitch, Jackie <[JFitch@cov.com](mailto:JFitch@cov.com)>; Alex J. Brown <[Alex.Brown@LanierLawFirm.com](mailto:Alex.Brown@LanierLawFirm.com)>; Jonathan.Wilkerson <[Jonathan.Wilkerson@LanierLawFirm.com](mailto:Jonathan.Wilkerson@LanierLawFirm.com)>; Lee, Anne <[alee@cov.com](mailto:alee@cov.com)>; Larkin, Brigid <[BLarkin@cov.com](mailto:BLarkin@cov.com)>; Geraldine W. Young <[geraldine.young@nortonrosefulbright.com](mailto:geraldine.young@nortonrosefulbright.com)>; Gabriel Culver <[gabriel.culver@nortonrosefulbright.com](mailto:gabriel.culver@nortonrosefulbright.com)>; Ethan Glenn <[ethan.glenn@nortonrosefulbright.com](mailto:ethan.glenn@nortonrosefulbright.com)>

**Subject:** RE: TX-Meta Subpoena

**[EXTERNAL]**

Kate and Kyle,

We appreciate your time tonight, your offer, and your willingness to reach an agreement to resolve this quickly. Based on our call, this is what we understand would be a workable compromise for both sides:

1. **Documents:** By the close of business Tuesday (04/23), Meta will produce directly to Texas the following document sets (totaling approximately 370k documents containing the documents' original bates numbers and a business records declaration sufficient to authenticate the documents):

- a. Materials responsive to DOJ's May 2020 CID, which includes requests for documents relevant to the development, strategy, and implementation of the NBA, as well as communications with Google re: the NBA.
- b. Materials responsive to DOJ's June 2020 CID, which includes documents related to Meta's advertising technology products.
- c. Materials responsive to Google's nonparty subpoena in the EDVA litigation (which you attached to your letter), which includes responsive documents through 2023, and, if a Meta witness or Meta corporate representative was deposed in the EDVA litigation, the transcript(s) and exhibits from the deposition(s).

There are other documents in the DOJ EDVA case produced by the DOJ that were originally Meta documents, but you have confirmed that those document sets involve investigations that predate the above information and those categories of documents would not be relevant (except by accident) to the States' requests.

2. **Search Terms:** You confirm that search terms related to the Network Bidding Agreement ("NBA") and Header Bidding were previously run on documents from relevant Meta custodians identified in response to the June 2020 CID, specifically including the search terms:
  - a. "Network Bidding Agreement"
  - b. "NBA"
  - c. "Header Bidding"
  - d. "HB"
3. **Custodians:** Meta will provide a list of the custodians for each document set at the same time that you produce the document sets.

**Deponents:** There are two notices of deposition. Meta will produce two corporate representative witnesses for deposition for one day each with seven hours on the record each. The first deposition will occur on April 30, 2024 in your London offices and while you will provide a more specific description it will include testimony about (1) the execution of the NBA and anything that occurred after related to the NBA or its operation, and (2) Google's cross-noticed topics. The second deposition will occur on May 2, 2024 in your London offices and while you will provide a more specific description will include testimony about anything that occurred before the execution of the NBA.

If that is agreeable to Meta, we have a deal.

Thanks, Marc

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**From:** Marc B. Collier

**Sent:** Friday, April 19, 2024 6:54 PM

**To:** Chow, Kyle W <[KChow@cov.com](mailto:KChow@cov.com)>; Zeke DeRose III <[zeke.derose@lanierlawfirm.com](mailto:zeke.derose@lanierlawfirm.com)>; Patchen, Kate <[KPatchen@cov.com](mailto:KPatchen@cov.com)>; Fitch, Jackie <[JFitch@cov.com](mailto:JFitch@cov.com)>; Alex J. Brown <[Alex.Brown@LanierLawFirm.com](mailto:Alex.Brown@LanierLawFirm.com)>; Jonathan.Wilkerson <[Jonathan.Wilkerson@LanierLawFirm.com](mailto:Jonathan.Wilkerson@LanierLawFirm.com)>; Lee, Anne <[alee@cov.com](mailto:alee@cov.com)>; Larkin, Brigid <[BLarkin@cov.com](mailto:BLarkin@cov.com)>; Geraldine W. Young <[geraldine.young@nortonrosefulbright.com](mailto:geraldine.young@nortonrosefulbright.com)>; Gabriel Culver <[gabriel.culver@nortonrosefulbright.com](mailto:gabriel.culver@nortonrosefulbright.com)>; Ethan Glenn <[ethan.glenn@nortonrosefulbright.com](mailto:ethan.glenn@nortonrosefulbright.com)>

**Subject:** RE: TX-Meta Subpoena

Kyle,  
Appreciate the bullets. When we discuss, I'd like a better understanding of what is not being proposed to be produced.  
Thanks, Marc

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**From:** Chow, Kyle W <[KChow@cov.com](mailto:KChow@cov.com)>

**Sent:** Friday, April 19, 2024 6:50 PM

**To:** Marc B. Collier <[marc.collier@nortonrosefulbright.com](mailto:marc.collier@nortonrosefulbright.com)>; Zeke DeRose III <[zeke.derose@lanierlawfirm.com](mailto:zeke.derose@lanierlawfirm.com)>; Patchen, Kate <[KPatchen@cov.com](mailto:KPatchen@cov.com)>; Fitch, Jackie <[JFitch@cov.com](mailto:JFitch@cov.com)>; Alex J. Brown <[Alex.Brown@LanierLawFirm.com](mailto:Alex.Brown@LanierLawFirm.com)>; Jonathan.Wilkerson <[Jonathan.Wilkerson@LanierLawFirm.com](mailto:Jonathan.Wilkerson@LanierLawFirm.com)>; Lee, Anne <[alee@cov.com](mailto:alee@cov.com)>; Larkin, Brigid <[BLarkin@cov.com](mailto:BLarkin@cov.com)>; Geraldine W. Young <[geraldine.young@nortonrosefulbright.com](mailto:geraldine.young@nortonrosefulbright.com)>; Gabriel Culver

<[gabriel.culver@nortonrosefulbright.com](mailto:gabriel.culver@nortonrosefulbright.com)>; Ethan Glenn <[ethan.glenn@nortonrosefulbright.com](mailto:ethan.glenn@nortonrosefulbright.com)>

**Subject:** RE: TX-Meta Subpoena

Hi Marc,

In advance of our call, we have been able to identify the following set of documents that Meta proposes producing to Texas:

- Materials responsive to DOJ's May 2020 CID, which includes requests for documents relevant to the development, strategy, and implementation of the NBA, as well as communications with Google re: the NBA.
- Materials responsive to DOJ's June 2020 CID, which includes documents related to Meta's advertising technology products.
- Materials responsive to Google's nonparty subpoena in the EDVA litigation. That subpoena is attached to our letter and includes responsive documents that run through April 2023.

We look forward to discussing,  
Kyle

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**From:** Marc B. Collier <[marc.collier@nortonrosefulbright.com](mailto:marc.collier@nortonrosefulbright.com)>

**Sent:** Friday, April 19, 2024 7:24 PM

**To:** Chow, Kyle W <[KChow@cov.com](mailto:KChow@cov.com)>; Zeke DeRose III <[zeke.derose@lanierlawfirm.com](mailto:zeke.derose@lanierlawfirm.com)>; Patchen, Kate <[KPatchen@cov.com](mailto:KPatchen@cov.com)>; Fitch, Jackie <[JFitch@cov.com](mailto:JFitch@cov.com)>; Alex J. Brown <[Alex.Brown@LanierLawFirm.com](mailto:Alex.Brown@LanierLawFirm.com)>; Jonathan.Wilkerson <[Jonathan.Wilkerson@LanierLawFirm.com](mailto:Jonathan.Wilkerson@LanierLawFirm.com)>; Lee, Anne <[alee@cov.com](mailto:alee@cov.com)>; Larkin, Brigid <[BLarkin@cov.com](mailto:BLarkin@cov.com)>; Geraldine W. Young <[geraldine.young@nortonrosefulbright.com](mailto:geraldine.young@nortonrosefulbright.com)>; Gabriel Culver <[gabriel.culver@nortonrosefulbright.com](mailto:gabriel.culver@nortonrosefulbright.com)>; Ethan Glenn <[ethan.glenn@nortonrosefulbright.com](mailto:ethan.glenn@nortonrosefulbright.com)>

**Subject:** Re: TX-Meta Subpoena

[EXTERNAL]

Kyle,

Can you please forward the discussed bullets before the call?

Thanks, Marc

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**From:** Chow, Kyle W <[KChow@cov.com](mailto:KChow@cov.com)>

**Sent:** Friday, April 19, 2024 4:13:26 PM

**To:** Marc B. Collier <[marc.collier@nortonrosefulbright.com](mailto:marc.collier@nortonrosefulbright.com)>; Zeke DeRose III <[zeke.derose@lanierlawfirm.com](mailto:zeke.derose@lanierlawfirm.com)>; Patchen, Kate <[KPatchen@cov.com](mailto:KPatchen@cov.com)>; Fitch, Jackie <[JFitch@cov.com](mailto:JFitch@cov.com)>; Alex J. Brown <[Alex.Brown@LanierLawFirm.com](mailto:Alex.Brown@LanierLawFirm.com)>; Jonathan.Wilkerson <[Jonathan.Wilkerson@LanierLawFirm.com](mailto:Jonathan.Wilkerson@LanierLawFirm.com)>; Lee, Anne <[alee@cov.com](mailto:alee@cov.com)>; Larkin, Brigid <[BLarkin@cov.com](mailto:BLarkin@cov.com)>; Geraldine W. Young <[geraldine.young@nortonrosefulbright.com](mailto:geraldine.young@nortonrosefulbright.com)>; Gabriel Culver <[gabriel.culver@nortonrosefulbright.com](mailto:gabriel.culver@nortonrosefulbright.com)>; Ethan Glenn <[ethan.glenn@nortonrosefulbright.com](mailto:ethan.glenn@nortonrosefulbright.com)>

**Subject:** TX-Meta Subpoena

**When:** Friday, April 19, 2024 7:00 PM-7:30 PM.

**Where:** Microsoft Teams Meeting

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Pushing back another 30 minutes to accommodate schedules.

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# COVINGTON

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